July 25, 2013

PROPOSED CHARGING LETTER

Mr. Leonard Borow
Chief Executive Officer

Aeroflex, Inc.
35 South Service Rd.
Plainview, N.Y. 11803

Re: Alleged Violations of the Arms Export Control Act and the International Traffic in Arms Regulations by Aeroflex, Inc.

Dear Mr. Borow,

The Department of State ("Department") charges Aeroflex, Inc., ("Respondent") with violations of the Arms Export Control Act ("AECA") (22 U.S.C. §§ 2778-2780) and the International Traffic in Arms Regulations ("ITAR") (22 C.F.R. Parts 120-130) in connection with unauthorized exports and retransfers, and re-exports of defense articles, to include technical data, to various countries, including proscribed destinations. A total of one hundred fifty-eight (158) charges are alleged at this time.

The essential facts constituting the alleged violations are described herein. The Department reserves the right to amend this proposed charging letter, including through a revision to incorporate additional charges stemming from the same misconduct of the Respondent in these matters. Please be advised that this proposed charging letter, pursuant to 22 C.F.R. § 128.3, provides notice of our intent to impose debarment or civil penalties or both in accordance with 22 C.F.R. §127.7 and 127.10.

The Department considered Respondent's voluntary disclosures and remedial compliance measures as significant mitigating factors when determining the charges to pursue in this matter. However, given the significant national security interests involved as well as the systemic and longstanding nature of the violations based on improper product

classifications, the Department has decided to charge the Respondent with 158 violations at this time. Based on information received in disclosures, the Department estimated the total number of unauthorized exports. Had the Department not taken into consideration Respondent's voluntary disclosures and remedial compliance measures as significant mitigating factors, the Department would have charged Respondent with many additional violations, thereby exposing Respondent to a more severe potential penalty.

JURISDICTION

Respondent is a corporation organized under the laws of the State of Delaware.

Respondent is a U.S. person within the meaning of the AECA and the ITAR, and is subject to the jurisdiction of the United States.

During the period covered by the violations set forth herein, Respondent was engaged in the manufacture and export of defense articles and defense services, and was registered as a manufacturer and exporter with the Department of State, Directorate of Defense Trade Controls ("DDTC") in accordance with Section 38 of the AECA and section 122.1 of the ITAR.

Aeroflex Colorado Springs, Inc. (Aeroflex CS) is a U.S. subsidiary of Respondent.

Aeroflex Wichita, Inc. (Aeroflex Wichita) is a U.S. subsidiary of Respondent.

Aeroflex KDI, Inc. (Aeroflex KDI) is a U.S. subsidiary of Respondent.

Aeroflex Plainview, Inc. (Aeroflex Plainview) is a U.S. subsidiary of Respondent.

Aeroflex Weinschel, Inc. (Aeroflex Weinschel) is a U.S. subsidiary of Respondent.

The defense articles associated with the violations set forth herein are designated as controlled under various categories of the U.S. Munitions List ("USML"), §121.1 of the ITAR.

BACKGROUND

Respondent is a global provider of high technology microelectronics to the aerospace, defense, cellular, and broadband communications markets.

Respondent's Aeroflex CS subsidiary provides standard and custom integrated circuits for aerospace, high-altitude avionics, telecommunications and other military and commercial uses.

Respondent's Aeroflex Plainview subsidiary designs and manufactures radiation hardened and tolerant microelectronics.

Respondent's Aeroflex Wichita subsidiary produces avionics and communication test equipment.

Respondent's Aeroflex KDI subsidiary produces control components used in various commercial and military programs.

Respondent's Aeroflex Weinschel subsidiary produces microwave assemblies, including those modified according to customer requests.

VIOLATIONS

The ITAR violations included in this proposed charging letter are derived from several voluntary disclosures provided by Respondent. The violations were caused by inadequate corporate oversight and demonstrate systemic and corporate-wide failure to properly determine export control jurisdiction over commodities. Respondent's failure to properly establish jurisdiction over defense articles resulted in unauthorized exports and re-exports of ITAR-controlled electronics, microelectronics, and associated technical data; and caused unauthorized exports of ITAR-controlled microelectronics by domestic purchasers.

Beginning in the 1990's, Respondent developed a specialized process called the Commercial RadHard process to harden many of its integrated circuits to resist moderate levels of radiation. Radiation hardening of electronics is a prerequisite for operation in space, high altitude, and nuclear facilities in order to prevent malfunctioning due to the presence of ionizing radiation. Based on testing of this system, Respondent initially concluded that its microelectronics could be made radiation resistant from the 100 – 300k rads (Si) range. Radiation tolerant microelectronics have lower performance expectations than radiation hardened microelectronics controlled under Category XV(d) of the USML. If the radiation tolerant microelectronics are designed for use in a satellite or spacecraft, however, such components are controlled under Category XV(e) of the USML.

Over the years, Respondent attempted to develop generic microelectronics that met "one product fits all requirements" for its customers. Respondent failed to realize that its products had radiation tolerance and space survivability superior to those of its competitors. Improvement of Respondent's Commercial RadHard process eventually revealed that its microelectronics could exceed the 500k rads (Si) range, thereby exceeding radiation tolerance levels and meeting some of the radiation hardness criteria outlined in USML Category XV(d).

The proper classification of a particular article or service as subject to the Department of State or Department of Commerce jurisdiction is critical to avoid potential export violations. The DDTC commodity jurisdiction ("CJ") procedure of ITAR § 120.4 is the only U.S. government method of determining whether an article or service is covered by the USML. Respondent, to include its subsidiaries, primarily relied on commodity classification guidance from the Department of Commerce in reviewing the export control status of its microelectronics and electronics. Respondent and subsidiaries failed to understand, however, that the Department of Commerce can only properly classify items which are subject to the Export Administration Regulations ("EAR") (15 C.F.R. Parts 730-774). While companies may self-classify an article or service, it is to their advantage to seek a CJ determination where a company has doubts about whether it is covered by the USML. An item is considered to be a defense article when it meets the criteria in one or more of the categories on the USML. Because an article will meet the criteria at the time of manufacture, it is generally recognized that specific defense articles are considered to be on the USML

at the time of manufacture. Improper classification by the manufacturer would not change the jurisdiction of the article.

The AECA provides that the Department of State, in concurrence with the Department of Defense, has the exclusive authority to designate defense articles and services which constitute the USML. If doubt exists as to the proper jurisdiction over an item, the CJ procedure through the Department of State should be used to determine whether an article or service is covered by the USML. A Department of Commerce commodity classification is not a jurisdictional determination for purposes of the AECA.

Aeroflex CS

Aeroflex CS began producing radiation tolerant multipurpose transceivers in 1999. These items were originally designed to have a total dose radiation hardness of 100k rads (Si). Two revisions of the transceivers were developed, and Aeroflex CS continued to design, manufacture, and export these revisions without testing their radiation hardness or tolerance capabilities. Aeroflex CS treated these items as Commerce-controlled.

On February 14, 2005, Aeroflex CS submitted to the Department a request for Advisory Opinion regarding the jurisdiction of a microelectronic circuit for incorporation into a satellite system. The Department returned without action the Advisory Opinion, and as recommended by the Department on August 11, 2005, Aeroflex CS requested a CJ determination for the item. On January 16, 2006, the Department informed Aeroflex CS in its CJ determination that application specific integrated circuits (ASICs) P/Ns: KB15-16/KD20/KM 10-12, were specifically designed for satellites controlled under USML Category XV(a), and were therefore defense articles under Category XV(e). The Department also rebutted Aeroflex CS's contention that the ASICs were under the control of the U.S. Department of Commerce because the ASICs did not meet all five criteria under Category XV(d). The Department noted such a contention was irrelevant in determining jurisdiction if a component was designed or modified for use in space.

Neither Aeroflex CS nor Respondent or its other subsidiaries used the rationale provided in this CJ determination for future self-jurisdictional analyses or for discovery of potential ITAR violations. At the time,

Aeroflex CS viewed the CJ response narrowly to apply to its ASIC product line, which met specific customer requirements, some of which included customer requirements for space applications. It did not believe at the time that the rationale in the CJ applied to the Aeroflex CS Standard Product Offering ("SPO") line which were products that were not developed for a specific customer or under a contract for a specific program. Moreover Respondent did not appropriately disseminate the CJ results within Respondent or to Respondent's other subsidiaries. This hampered the ability of Respondent to apply the rationale from the classification results to future self-classifications.

Despite the 2006 CJ determination, over the next three years, Aeroflex CS failed to recognize that its various radiation tolerant microelectronics (designed for space, but not meeting all five criteria outlined under Category XV(d)) were defense articles under Category XV(e), requiring Department authorization for export. Examples of these microelectronics included ASICs, transceivers, receivers, SuMMITs databuses, static random access memory (SRAM) circuits, 16-bit logic devices, low-voltage differential signaling (LVDS) devices, microcontrollers, programmable read-only memory (PROM) circuits, and field programmable gate array (FPGA) circuits. Aeroflex CS reverted to relying on commodity classifications from the Commerce Department to confirm the export control and licensing authority for its commodities.

In response to a commodity classification request, on November 18, 2006, the Department of Commerce informed Aeroflex CS that two radiation tolerant multipurpose transceivers (parts UT54ACS245S and UT54ACS245SE) may have been defense articles and advised Aeroflex CS to contact the Department of State "PM/ODTC for licensing requirements" for these items. Aeroflex CS disagreed with the Department of Commerce on potential ITAR jurisdiction and resubmitted a commodity classification request for clarification. On January 18, 2007, the Department of Commerce stated to Aeroflex CS that the integrated circuits in question were classified as EAR99, but noted that any semi-conductor designed to meet MIL-PRF-38535 for spacecraft application may be ITAR-controlled.

In order to verify total dose performance of an integrated circuit, in January 2007, Aeroflex CS tested and discovered that an integrated circuit exceeded a dose radiation hardness of 500k rads (Si), which exceeded some

ITAR radiation hardness thresholds. Consequently, Aeroflex CS tested previously untested microelectronics for radiation hardness and discovered that some multi-purpose transceivers exceeded a dose radiation hardness of 500k rads (Si).

After realizing that its microelectronics could meet or exceed some ITAR radiation hardness levels, on April 30, 2007, Respondent (on behalf of Aeroflex CS) submitted to the Department a request for a CJ determination for its radiation tolerant multipurpose transceivers (parts UT54ACS164245S and UT54ACS164245SE) and continued to argue the transceivers should not be ITAR-controlled, due to the fact they did not meet all five criteria under Category XV(d). In its submission, Respondent also noted its products were currently marketed as ideal for space applications. Respondent further acknowledged its transceivers were used in a variety of scientific spacecraft including the International Space Station, weather satellites, satellites for Mars and moon exploration, and various civilian satellites for China, as well as onboard foreign military satellites. Subsequently, on November 15, 2007, the Department determined that the radiation tolerant transceivers were defense articles controlled under USML Category XV(e).

Simultaneous with its CJ determination request submission on April 30, 2007, Respondent filed a voluntary disclosure with the Department on behalf of Aeroflex CS. The disclosure was the first of several disclosures revealing that for over a decade, Aeroflex CS incorrectly determined that radiation tolerant microelectronics designed or modified for spacecraft and associated equipment were subject to the EAR. These microelectronics did not exceed all ITAR radiation hardness thresholds outlined in USML Category XV(d), but had a level of radiation tolerance sufficient to survive in outer space (usually 300k rads (Si) and higher). The April 2007 disclosure further revealed that on fifty-one (51) occasions between 1999 and 2007, Aeroflex CS exported approximately 5,500 radiation tolerant multipurpose transceivers without Department authorization to entities located in Canada, Germany, Italy, Japan, the People's Republic of China, Russia, South Korea, Spain, Sweden, and the United Kingdom. Of these exports, a total of 652 radiation tolerant multipurpose transceivers were exported to the People's Republic of China after the 2006 CJ guidance was issued to Aeroflex. Respondent further disclosed that Aeroflex CS caused eighteen (18) unauthorized exports when it sold approximately 1,600 radiation tolerant multipurpose transceivers to domestic buyers who

subsequently exported the defense articles without Department authorization.

Respondent continued to dispute the ITAR jurisdiction conclusion and requested reconsideration of the November 2007 CJ determination. In response, on August 19, 2008, the Department reaffirmed its original determination, and stated the subject transceivers were under the jurisdiction of the Department of State and controlled on the USML under Category XV(e). As a result, Respondent provided both internal and external training to employees at Aeroflex CS, and Aeroflex CS reviewed its product line for additional microelectronics potentially exported without Department authorization. This compliance review resulted in identification of nine more product families of microelectronics (SuMMit, Transceiver, RadHard SRAM, RadTol SRAM, PROM, LVDS, Clock, Microcontroller, and ASIC) encompassing forty-three additional part numbers for which Aeroflex CS previously made incorrect jurisdictional self-determinations. Aeroflex CS also identified three new product families (Remote Terminal, SpaceWire, and LEON) with eight additional part numbers that it would treat as ITAR-controlled going forward.

As a consequence of its product review, Aeroflex CS learned that between 2003 and 2008, it exported over 37,000 additional ITAR-controlled radiation-tolerant microelectronics without Department authorization to entities located in Argentina, Austria, Brazil, Canada, Finland, France, Germany, India, Israel, Italy, Japan, the Netherlands, the People's Republic of China, Russia, Singapore, South Africa, South Korea, Spain, Sweden, Switzerland, Taiwan, Turkey and the United Kingdom. The Department was unable to determine whether there were further unauthorized exports prior to 2003, since Aeroflex CS limited its review of such exports to a five-year window. According to the transaction history for the microelectronics, there were many sales to entities abroad which retransferred the items to still other countries. Over 14,500 radiation tolerant microelectronics were exported or re-exported to the People's Republic of China – more than half of these after the 2006 CJ guidance was received by Respondent. These radiation tolerant microelectronics assisted China in improving satellite reliability, hardware, and integration. Further, the exports directly supported Chinese satellites and military aircraft, and caused harm to U.S. national security.

Of the more harmful of these exports and re-exports, were 50 ITAR-controlled radiation tolerant LVDS receivers exported to France in 2008 without Department authorization. The LVDS receivers were incorporated into an "ITAR free" or unrestricted Spacebus 4000 satellite and subsequently re-exported to the People's Republic of China, a proscribed destination pursuant to section 126.1 of the ITAR. In a later disclosure submitted on October 15, 2009, Aeroflex CS also revealed that in 2001-2003, it exported 10 ASIC prototypes to Belgium, and 100 ASICs to France for end-use on a similar Spacebus 4000 satellite. These items were subsequently launched from the People's Republic of China. These ASICs were commercial gate arrays radiation hardened to 300k rads (Si) to meet space requirements and were specifically customized and programmed for use on the Spacebus 4000 satellite. The unauthorized re-exports caused harm to national security by providing the People's Republic of China a more reliable satellite capability.

As Aeroflex CS obtained further training in ITAR compliance, additional unauthorized exports were discovered. Between 2004 and 2006, Aeroflex CS exported a total of 196 ITAR-controlled radiation hardened microelectronics (products AC01, JB01, FB14, and L010) to Canada without Department authorization. The items were used in flight simulators, the Hubble telescope rescue mission, and the CASSIOPE Spacecraft bus. At the time of export, they were self-determined to be controlled on the USML under Category XV(d), and exports of these items to other countries were being appropriately licensed. However, Respondent incorrectly understood that exports of U.S. defense articles to Canada intended for end-use in Canada by Canadian or American citizens should be the subject of EAR license exception "no license required" or "NLR." According to Respondent, this misunderstanding was relied upon from 1999 through 2006.

From 2005 through 2006, Aeroflex CS exported 50 ITAR-controlled integrated circuits (two prototype ASICs, models KM10 and 11) without Department authorization to the United Arab Emirates for end-use on the GSAT-5, Resource SAT-2, and Ocean SAT-2 satellite projects in India. Respondent explained that it believed the circuits were Commerce-controlled at the time of export. Aeroflex CS however, had submitted a CJ determination request for the circuits in August 2005 and exported the circuits while the CJ was under review. On January 12, 2006, the

Department determined the subject integrated circuits were controlled on the USML under Category XV(e). Respondent did not notify the Department of these violations until January 12, 2010.

In January 2009, the Department directed Respondent to obtain CJ determinations regarding 16 items likely controlled on the USML. In CJ determinations on November 5, 2009, the Department determined that two additional commodities, SRAM Products UT9Q512K32 16Megabit SRAM MCM, and QCOTS UT7Q512 512K x 8 SRAM, were U.S. defense articles under Category XV(e) of the USML. Respondent had incorrectly treated these microelectronics as Commerce-controlled. The CJ determinations also revealed that these SRAMS were designed, developed, configured, adapted, or modified for the space environment, and predominant sales were for military applications. Respondent did not formally notify the Department of violations pertaining to these items in accordance with ITAR section 127.12(c); however, as part of an unrelated disclosure, Respondent listed exports of the QCOTS UT7Q512 512K x 8 SRAM as exported under the jurisdiction of the Department of Commerce. Respondent stated that on two (2) occasions between 2002 and 2003, 100 of these SRAMs were exported to Italy for use on the AGILE satellite and the Mars Reconnaissance Orbiter Mission.

In June 2009, the Department of Commerce returned without action a license for field programmable gate array devices (model UT6325-YPC), and advised Aeroflex CS that the item may be ITAR-controlled. The Department affirmed in November 2009 that the FPGA was a defense article controlled under Category XV(e) on the USML. In April of 2010, Respondent filed a disclosure revealing that from 2005 through 2008, on twelve (12) occasions, Aeroflex CS exported a total of 259 radiation tolerant ITAR-controlled FPGAs as if they were under the jurisdiction of the Department of Commerce. The FPGAs were exported and re-exported to entities located in Argentina, Brazil, Germany, Italy, Japan, Morocco, the People's Republic of China, Russia, Spain, and the United Kingdom. According to an end-use certificate for a customer located in Italy, the foreign party indicated the subject FPGA would be integrated into spacecraft, and the satellite mission was telecommunications for military use. Of further concern, Respondent disclosed that the Chinese Academy of Space Technology, located in the People's Republic of China was the end-user for 170 of the FPGAs. These FPGAs provided the People's Republic of

China improved satellite operation and reliability, and their export to the PRC caused harm to U.S. national security.

Aeroflex Plainview

Aeroflex Plainview failed to recognize that items originally designed for civil purposes could be subject to the ITAR if such items were built to specifications for a military application. Additionally, Aeroflex Plainview failed to exercise due diligence by obtaining end-use information for the items it was manufacturing and subsequently exporting. Between 2002 and 2007, on forty-six (46) occasions, Aeroflex Plainview exported a total of 2,781 defense articles useful for image stabilization to Canada without Department authorization or proper use of the Canadian exemption in section 126.5 of the ITAR. Such unauthorized exports included torque motor kits, torque motor axes, and gimbal ring assemblies. These specially modified components were provided for use in image stabilization products including the MX-15, MX-15D, and MX-20 airborne multi-spectral imaging turrets that were sealed and ruggedized. Aeroflex Plainview's components were incorporated into these foreign military products controlled on Canada's Munitions List.

In 2006, Aeroflex Plainview exported approximately 12 synthesizer upgrade kits and associated technical data without Department authorization or proper use of the ITAR Canadian exemption to a Canadian subcontractor in support of the North Warning System of early warning radars. Respondent did not recognize that the items were U.S. defense articles.

Aeroflex Weinschel

From 2005 through 2007, Aeroflex Weinschel exported to Canada approximately 1,010 microwave assembly devices modified for use in space, without Department authorization or proper use of the Canadian exemption. Aeroflex Weinschel was not adequately familiar with the ITAR and did not understand that items specifically designed, modified, configured or adapted for military or space applications were controlled by the Department.

Aeroflex Wichita

For over a decade, Aeroflex Wichita incorrectly self-determined that the FM/AM 1600 (TS-4317) communication system test set was controlled under the jurisdiction of the Department of Commerce. While the item was originally designed to be commercial in nature, it was subsequently modified for a military application. Aeroflex Wichita and its predecessor entity, IFR Systems, Inc., failed to recognize that modification of the test set for military application resulted in a change in export jurisdiction from the Department of Commerce to the Department of State.

In October 2007, U.S. Customs & Border Protection detained one of the units and after consultation with the Department, requested that Respondent obtain a CJ determination regarding the item. Consequently, Respondent reviewed the product specifications in detail and self-determined that the subject communication test set, as well as models FM/AM 1600S and FM/AM-1900, were controlled on the USML.

From 2004 through 2008, Aeroflex Wichita exported FM/AM 1600, 1600S and 1900 test communication sets without Department authorization twenty-four (24) times to Belgium, Germany, Israel, Italy, Kuwait, the Netherlands, Poland, and South Korea.

Further, on April 3, 2008, Aeroflex Wichita exported a processor board specifically designed for the FM/AM 1600 radio to South Korea without Department authorization.

Aeroflex KDI

Aeroflex KDI's lack of understanding that items specifically designed, modified, configured or adapted for military or space applications are controlled by the Department, as well as absence of compliance oversight and formal training for employees on ITAR jurisdiction, led to exports of defense articles without Department authorization.

On May 5, 2008, Respondent disclosed that Aeroflex KDI electronically filed incorrect commodity jurisdiction information in the Automated Export System (AES) for exports of radar frequency couplers designed for the Eurofighter program, which resulted in a DSP-5 permanent

export license not being properly decremented. Aeroflex KDI also reported it exported 20 more units than authorized by the license. As part of its corrective measures, Respondent provided training to Aeroflex KDI personnel focusing on licensing requirements for items modified for military applications. Aeroflex KDI reviewed its jurisdictional determination procedures, and discovered that some of its historical self-determinations were incorrect. In a separate disclosure filed in August 2008, Aeroflex KDI explained that it not only made the administrative error of including the incorrect jurisdiction information on the shipping documentation as reported on May 5, 2008, but also misclassified the radar frequency couplers. Respondent clarified that in 2006, on two (2) occasions, Aeroflex KDI exported 10 radar frequency couplers without authorization to Canada due to the incorrect self-determination.

In the same August 2008 submission, Respondent also disclosed that Aeroflex KDI incorrectly self-determined the export jurisdiction over various military electronics ("control components") it manufactured. Between 2003 and 2008, it so erred regarding 15 electronic parts (input-output modules, single pole double throw hi-power switch, bandpass filter/duplexer, receiver/transmitter modules, couplers, digitally controlled attenuators, two-way power dividers) and consequently exported approximately 365 control components without Department authorization to Germany, Israel, Italy, Luxemburg, and the United Kingdom.

In response to this disclosure, the Department corresponded with Aeroflex KDI's domestic purchasers to determine whether they unknowingly exported ITAR-controlled electronics (i.e., control components) purchased from Aeroflex KDI without authorization. The Department learned that beginning in 2000, Aeroflex KDI caused approximately 35 unauthorized exports consisting of some 206 items, by selling defense articles (incorrectly identified as not ITAR-controlled) to domestic buyers, who subsequently exported the items without Department authorization. These parts included input-output modules, bandpass filter/duplexers, receiver/transmitter modules, and couplers. Aeroflex KDI's corrective actions regarding the incorrect jurisdiction self-determinations were deficient in that Aeroflex KDI did not notify all of its customers of the errors, thereby causing further ITAR violations. The Department could not determine whether KDI disclosed the full scope of its violations pertaining to the misclassification of electronics, since Aeroflex KDI limited its review

to a five-year window; violations prior to that timeframe were also revealed to the Department by third parties.

In April 2009, Aeroflex KDI submitted a supplement to its August 2008 disclosure and reported that it incorrectly identified part A3KG26 as Commerce-controlled rather than as being under Category XI(c) on the USML. Due to this error, there were nine (9) occurrences between 2004 and 2008, in which a total of 5,322 ITAR-controlled defense articles were exported without Department authorization to Germany.

RELEVANT ITAR REQUIREMENTS

Part 121 of the ITAR identifies the items that are defense articles, technical data, and defense services pursuant to Section 38 of the AECA.

Section 123.1(a) of the ITAR provides that any person who intends to export or to import temporarily a defense article must obtain the approval of the DDTC prior to the export or temporary import, unless the export or temporary import qualifies for an exemption under the provisions of this subchapter.

Section 123.22(b) of the ITAR provides that any export of a defense article controlled by the ITAR requires the applicant/exporter, or an agent acting on the filer's behalf, to file export information with the U.S. Customs and Border Protection.

Section 126.1(a) of the ITAR provides that it is the policy of the United States to deny, among other things, licenses and other approvals, destined for or originating in certain countries, including the People's Republic of China.

Section 126.5 of the ITAR provides that the permanent and temporary export to Canada without a license of defense articles and related technical data is subject to limitations, including exclusion of Category XV(d) items.

Section 127.1(a)(1) of the ITAR provides that it is unlawful to export or attempt to export from the United States, or to re-export or re-transfer or attempt to re-export or re-transfer from one foreign destination to another

foreign destination of any defense article or technical data or to furnish any defense service for which a license or written approval is required by the ITAR without first obtaining the required license or written approval from DDTC.

Section 127.1(a)(4) of the ITAR provides that it is unlawful to conspire to export, import, re-export, retransfer, furnish or cause to be exported, imported re-exported, retransferred or furnished, any defense article or to furnish any defense service for which a license or written approval is required by the ITAR without first obtaining the required license or written approval from the DDTC.

CHARGES

Charges 1 – 32 Unauthorized Export of Defense Articles

Respondent violated section 127.1(a)(1) of the ITAR when it exported ITAR-controlled microelectronics and electronics to entities located in Argentina, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, India, Israel, Italy, Japan, Kuwait, Luxemburg, the Netherlands, Poland, Russia, Singapore, South Korea, South Africa, Spain, Sweden, Switzerland, Taiwan, Turkey, United Arab Emirates, and the United Kingdom without Department authorization.

Charges 33 – 128 Unauthorized Export of Defense Articles to the People's Republic of China

Respondent violated section 127.1(a)(1) of the ITAR when it exported ITAR-controlled microelectronics to entities located in the People's Republic of China.

Charges 129 – 146 Causing the Unauthorized Export of Defense Articles

Respondent violated section 127.1(a)(4) of the ITAR when it sold ITAR-controlled radiation tolerant multipurpose transceivers to domestic buyers who exported the transceivers without Department authorization due to Respondent's incorrect jurisdiction determination.

Charges 147 – 153 Causing the Unauthorized Export of Defense Articles to the People's Republic of China

Respondent violated section 127.1(a)(4) of the ITAR when it exported ITAR-controlled microelectronics to foreign entities who then re-exported these defense articles to the People's Republic of China without Department authorization due to Respondent's incorrect jurisdiction determinations.

Charge 154 Causing the Unauthorized Export of Defense Articles

Respondent violated section 127.1(a)(4) of the ITAR when it sold ITAR-controlled integrated circuits to the United Arab Emirates for end-use on the GSAT-5, Resource SAT-2, and Ocean SAT-2 satellite projects in India with knowledge these items would be re-exported without Department authorization.

Charges 155 – 158 Misuse of the Canadian Exemption Resulting in Unauthorized Exports

Respondent violated 127.1(a)(1) when it exported radiation hardened microelectronics controlled on the USML under Category XV(d) to Canada without Department authorization.

The Department considered the Respondent's voluntary disclosures and remedial compliance measures as significant mitigating factors, and would otherwise have charged the Respondent with many additional violations and imposed a more severe penalty. The Department estimated the number of certain types of violations, due to the summary nature of several key voluntary disclosures by the Respondent.

ADMINISTRATIVE PROCEEDINGS

Pursuant to Part 128 of the ITAR, administrative proceedings are instituted by means of a charging letter against Respondent for the purpose of obtaining an Order imposing civil administrative sanctions. The Order issued may include an appropriate period of debarment, which shall generally be for a period of three years, but in any event will continue until an application for reinstatement is submitted and approved. Civil penalties,

not to exceed $500,000 per violation, may be imposed as well in accordance with Section 38(e) of the AECA and Section 127.10 of the ITAR.

A Respondent has certain rights in such proceedings as described in Part 128 of the ITAR. Currently, this is a proposed charging letter. However, in the event that you are served with a charging letter, you are advised of the following matters: You are required to answer the charging letter within 30 days after service. If you fail to answer the charging letter, your failure to answer will be taken as an admission of the truth of the charges. You are entitled to an oral hearing, if a written demand for one is filed with the answer, or within seven (7) days after service of the answer. You may, if so desired, be represented by counsel of your choosing.

Additionally, in the event that you are served with a charging letter, your answer, written demand for oral hearing (if any) and supporting evidence required by Section 128.5(b) of the ITAR, shall be in duplicate and mailed to the administrative law judge designated by the Department to hear this case. These documents should be mailed to the administrative law judge at the following address: USCG, Office of Administrative Law Judges G-CJ, 2100 Second Street, SW Room 6302, Washington, D.C. 20593. A copy shall be simultaneously mailed to the Managing Director, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, PM/DDTC, SA-1, 12th Floor, Washington, D.C. 20522-0112. If you do not demand an oral hearing, you must transmit within seven (7) days after the service of your answer, the original or photocopies of all correspondence, papers, records, affidavits, and other documentary or written evidence having any bearing upon or connection with the matters in issue.

Please be advised also that charging letters may be amended from time to time, upon reasonable notice. Furthermore, pursuant to Section 128.11 of the ITAR, cases may be settled through consent agreements, including after service of a proposed charging letter.

Be advised that the U.S. Government is free to pursue civil, administrative, and/or criminal enforcement for violations of the AECA and the ITAR. The Department of State's decision to pursue one type of enforcement action does not preclude it, or any other department or agency, from pursing another type of enforcement action.

Sincerely,

Daniel J. Buzby
Acting Director
Office of Defense Trade Controls
Compliance